

REMARKS

Reconsideration and allowance are respectfully requested.

The amendments proposed in this Response address the issues on page 2 of the office action. No new matter has been added. Entry and allowance are requested.

Claims 39-58 are patentable under 35 U.S.C. 112, second paragraph.

Regarding claim 39, the Examiner's query about number of "pieces of material" is in error. The claim defines the cover having the different portions/sides that form the cover and there is no showing as to why Applicant must have "pieces of material" to define the different portions/sides that form the cover. Therefore, the claim language adequately describes the invention, is non-ambiguous and meets the requirements of 35 U.S.C. 112, second paragraph.

Also, the rejection of claim 48 for using the terms "connections" is in error. Applicant can be his own lexicographer. A connection is an element that connects something else, for example, like a joint. The dependent claims further define what the connections are and what they connect. Therefore, the term is adequate, non-ambiguous and meets the requirements of 35 U.S.C. 112, second paragraph.

Withdrawal of the 35 U.S.C. 112, second paragraph rejections is respectfully requested.

Claims 1, 4-9, 15, and 18 are patentable under 35 U.S.C. 102(b) over Martin (US 5,671,498).

The present invention generally defines a wringable pad that has an absorbent material enclosed within a cover that has holes for expressing contents of the absorbent material when wringing the pad.

Martin relates to a skin exfoliating scrubbing device having a first foam layer having a second woven synthetic layer in contact therewith. The foam pad may be encased in the second layer or may be adhered to one another in two layers. Martin teaches that the outer layer/second layer may be a mesh with fine mesh openings which provide "a mildly abrasive working surface" (see, for example, column 3, lines 25-33; column 5, lines 55-60). The only way the Martin device can work, to remove scales/dried skin, is by having at least the mandated mildly abrasive working surface. That has nothing to do with the claimed invention.

21 { Martin does not describe, teach or suggest an elongated wringable pad that has an absorbent material enclosed within a cover and the cover having holes for expressing contents of the absorbent material when wringing the pad. Martin cannot provide the claimed device because Martin requires that the foam material must be removed from the woven filament abrasive cover for use on a surface and therefore Martin cannot have anything to do with a wringable cover enclosing the wringable foam that can both be simply wrung out after use.

For an invention to be anticipated, it must be demonstrated

that each and every element of the claimed invention is present in the "four corners" of a single prior art, either expressly described therein or under the principle of inherency. Lewmar Marine Inc. v Barient Inc., 3 USPQ2d 1766, 1767-1768 (CAFC, 1987). The absence from prior art reference any claimed element negates anticipation. Kloster Speedsteel AB v. Crucible, Inc., 230 USPQ 81, 84 (Fed. Cir. 1986).

Claims 39-56 are patentable under 35 U.S.C 102(b) over Giallourakis (US 4,821,360).

Giallourakis relates to a pad in which a sponge is removably disposed in a knitted cover with a mouth in the cover for easily removing the sponge. The sponge gives shape to the cloth cover and prevents wrinkles and folds on the cover when the sponge is placed within the cover. The cover is reversible for using the inside and the outside during polishing of a surface.

Giallourakis does not describe or teach a wringable pad that has an absorbent material enclosed within a cover that has holes for expressing contents of the absorbent material when wringing the pad.

The Examiner has failed to show a teaching, suggestion or inherence, anywhere in the reference, of plural holes in the cover that encloses the pad and helps express fluids when the pad and cover are wrung out after use.

To be anticipating, a prior art reference must disclose "each and every limitation of the claimed invention[,]... must be

enabling[,] and must describe...[the] claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention." In re Paulsen, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

Claims 1-3, 5-9, 17-19, and 21 are patentable under 35 U.S.C. 102(b) as well as 35 U.S.C. 103(a) over Sewell (US 3,083,392).

Sewell relates to a sponge and chamois combination (see Figure 1 and related description) in which a first sponge block 1 is joined to a second sponge block by glue. The second sponge block 2 is formed with a sponge joined to a chamois by water proof glue. Perforations 4 are provided on the skin 3 of the second sponge block 2 for draining water after using the joined sponge blocks for washing. Water is squeezed out and the chamois covered second block side is used to dry the surface.

Sewell provides another combination in Figure 2 in which the sponge 5 is joined to the cover sponge 6 with the cover having outwardly extending flange 8. An additional strip 10 of chamois is glued to the block 5 extending outwardly and the cover 7 is anchored to the block 8. Drain passageways are provided between the blocks by anchoring flexible tubes between the strip 10 and the flange 8.

Sewell further provides a block of sponge 12 completely covered by a covering material such as chamois 13 and provides passageways formed between the joined margins 14 of the covering material. The material may be sewed or glued to the sponge

block. Tubular material are positioned between the joined margins to form passageways 15 to remove moisture from the block.

Nothing in Sewell describes, teaches or suggests a pad with a cover enclosing an absorbent material with the cover having holes for expressing contents from the pad. The Examiner picks and chooses different features from different embodiments in Sewell to negate the claimed elements even though Sewell neither describes, suggests, teaches nor inherently provides those claimed features in any of the Sewell Figures 1, 2, and 3.

Since the cited reference does not disclose all the elements of the present invention, the reference cannot anticipate the present invention. Thus, lacking an element of the claims, the reference cannot anticipate the invention. Carmen Indus., Inc. v. Wahl, 220 USPQ 481, 485 (Fed. Cir. 1983).

Claims 1, 5-11, 13, 14, 18, 22-23, 27-38, 57, and 58 are patentable under 35 U.S.C. 102(b) as well as 35 U.S.C. 103(a) over Giallourakis.

As pointed out above, Giallourakis does not describe, teach or suggest the claimed invention. Therefore the reference cannot render the claimed features obvious.

Giallourakis provides a foam material removably disposed inside a polishing cloth cover so that the sponge can be removed and used and the cloth cover can be used on the inside and the outside for polishing surfaces.

Giallourakis does not teach nor suggest an elongated

wringable pad comprising an absorbent material, a cover enclosing the absorbent material, the cover comprising first and second elongated opposite side portions disposed between top and bottom elongated portions, and first and second opposite end portions disposed between the top and bottom elongated portions and between the first and second elongated side portions, the absorbent material having a complementary shape for fitting within the cover. Furthermore, totally absent from Giallourakis is the cover having a plurality of openings for wringing-out contents of the pad by twisting along the length of the pad. Thus, the reference cannot anticipate nor render obvious the claimed invention.

That [the prior art] might incorporate elements which could be used in appellants' system does not render appellants' claims obvious when there is no suggestion of using these elements in substantially the same manner as appellants use them. In re Donovan, 184 USPQ 414, 421 (CCPA, 1975).

Claim 12 is patentable under 35 U.S.C. 103(a) over Giallourakis.

As pointed out above, Giallourakis does not describe, teach or suggest the claimed invention. Therefore the reference cannot render the claimed features obvious.

Giallourakis provides a foam material removably disposed inside a polishing cloth cover so that the sponge can be removed and used and the cloth cover can be used on the inside and the outside for polishing surfaces.

The reference does not teach nor suggest the features of claim 12 which adds to claim 7 that the rectangular sheet that forms the encasing has a fold between the side edges so that the sheet is folded about an axis and joined at the edges to form the encasing for receiving and enclosing the sponge.

The Federal Circuit mandates that the reference teachings be considered as a whole, rather than picking and choosing claimed elements to negate the claimed invention. "In considering the patentability of the present invention, the Board should consider the invention as a whole, consider the scope and content of the prior art as a whole, consider the differences between the claims at issue and the prior art, and consider the level of ordinary skill in the art to which the invention pertains at the time the invention was made." Graham v. John Deere Co., 148 USPQ 459, 467 (1966).

Claim 20 is patentable under 35 U.S.C. 103(a) over Sewell.

As pointed out earlier, Sewell does not teach or suggest the claimed invention.

Sewell relates to a sponge and chamois combination (see Figure 1 and related description) in which a first sponge block 1 is joined to a second sponge block by glue. The second sponge block 2 is formed with a sponge joined to a chamois by water proof glue. Perforations 4 are provided on the skin 3 of the second sponge block 2 for draining water after using the joined sponge blocks for washing. Water is squeezed out and the chamois

covered second block side is used to dry the surface. Nothing in Sewell describes, teaches or suggests a pad with a cover enclosing an absorbent material with the cover having holes for expressing contents from the pad, in which the cover is sheep-skin chamois.

Citing In re Gordon, 221 USPQ, 1127, the court pointed out, "the mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification". In re Fritch, 23 USPQ2d 1783, 1784 (CAFC, August 1992).

Claims 24 and 25 is patentable under 35 U.S.C. 103(a) over Giallourakis and Hale (US 5,918,341).

As pointed out above, Giallourakis teaches away from the claimed invention. Therefore, any further combination with other references would also lead away from the present claims.

Hale relates to a controlled fold cleaning cloth that has to be folded as specified in the reference to achieve its optimal use. Hale provides a sleeve of the foldable material and teaches a folding pattern for using each panel of the folded sleeve. That has nothing to do with the claimed invention which provides a cover having lengths much greater than a width as defined in claim 16.

Moreover, there is no showing as to where in the references there is a teaching or a suggestion to adapt the Giallourakis

removable sponge within the Hale foldable sleeve and arrive at the claimed invention.

The test in reviewing rejections under 35 U.S.C. 103 in which the examiner has relied on teachings of several references, is whether references, viewed individually and collectively, would have suggested claimed invention to a person possessing ordinary skill in the art, and citing references which merely indicate that isolated elements and/or features recited in the claims are known is not a sufficient basis for concluding that combination of the claimed elements would have been obvious. Ex parte Hiyamizu, 10 USPQ2d 1393-1395 (Board of Patent Appeals and Inter., 1988); In re Kaslow, 217 USPQ 1089 (Fed. Cir. 1983); In re Deminski, 230 USPQ 313 (Fed. Cir. 1986).

Claim 26 is patentable under 35 U.S.C. 103(a) over Giallourakis and Sewell.

As pointed out above, each of Giallourakis and Sewell teaches away from the claimed invention. Therefore, any further combination with other references would also lead away from the present claims.

Sewell has been described earlier. Giallourakis has also been described above. The two references do not teach nor suggest the claimed invention. There is no showing as to where there is a motivation or a suggestion within the references to effect a combination as proposed by the Examiner. Therefore, their combined teachings also cannot render any claimed feature

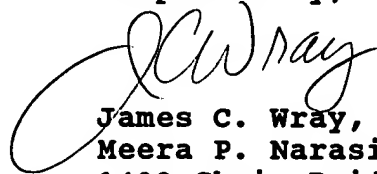
obvious. Hindsight reconstruction using the present invention as a guide cannot form a sound basis for an obviousness rejection.

"It is impermissible to use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious." In re Fritch, 23 USPQ2d 1783, 1784 (CAFC, August 1992), quoting from In re Gorman, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991). "This court has previously stated that one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." Id. quoting from In re Fine, 5 USPQ2d 1600 (CAFC, 1988).

Nothing in the references, either singly or in combination, teaches or suggests the claimed features. Therefore, the references cannot anticipate nor render obvious the present invention as claimed.

Since Applicant has presented a novel, unique and non-obvious invention, reconsideration and allowance are respectfully requested.

Respectfully,



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